

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE JULY 15, 2003

AMENDED IN SENATE JUNE 25, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 135

Introduced by Assembly Member Reyes
(Coauthors: Assembly Members Koretz, Montanez, and Mullin)
(Coauthors: Senators Alarcon, Escutia, Murray, and Soto)

January 16, 2003

An act to add Chapter 6.5 (commencing with Section 1111) to Part 3 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 135, as amended, Reyes. On-air broadcast employees.

Under existing law, broadcast employers may restrict on-air employees from seeking and accepting other employment, both during the term of employment and afterwards.

This bill would make it unlawful for broadcast employers to restrict specified on-air employees during the final 6 months of a contract from seeking and accepting other employment that commences after the term of the employment contract, except during the first contract between the parties, and would provide specified damages, as well as attorney's fees and costs, if an on-air employee prevails in an action challenging the

restriction. *The bill would further provide that if an on-air employee's contract includes a provision that the broadcast employer knows or should know is unlawful or unenforceable, the employee may void all or part of the contract.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6.5 (commencing with Section 1111) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 6.5. THE BROADCAST INDUSTRY FREEDOM OF
CONTRACT ACT

1111. This chapter shall be known and may be cited as the Broadcast Industry Freedom of Contract Act.

1112. As used in this chapter:

(a) "Broadcast employer" means an employer that is a television station, television network, radio station, radio network, or other similar entity and employs on-air employees.

(b) "On-air employee" means a person who performs live or prerecorded on-camera or audio announcing duties for a broadcast employer on a nonsyndicated program whether the content is delivered over the airwaves or by cable, satellite, Internet, or other means of delivery.

(c) "Prospective employment access restriction" means a term or a clause in an employment contract between a broadcast employer and an on-air employee that does one of the following:

(1) Requires an on-air employee to negotiate exclusively with a broadcast employer concerning continued or future employment that commences after the term of the employment contract, during the final six months of an employment contract or after the term of an employment contract.

(2) Prohibits or limits an on-air employee, during the final six months of the term of an employment contract with a broadcast employer, from communicating or negotiating with any third party or entering into an agreement of any kind concerning employment that commences after the term of the employment contract.

(3) Imposes any “first-refusal” or other obligations upon an on-air employee, permitting a broadcast employer to prevent an on-air employee from accepting employment that commences after the term of the employment contract with a new prospective employer by matching the compensation or other benefits offered by the new prospective employer. However, a broadcast employer may impose a “first-refusal” or other obligations upon an on-air employee in the first employment contract between the parties.

1113. It is an unlawful employment practice for a broadcast employer to include in any employment contract with an on-air employee a provision that is a prospective employment access restriction.

1113.5. If a broadcast employer includes a provision in an employment contract which it knew or should have known was a violation of this chapter, or is unlawful or unenforceable under any other provision of state or federal law, the aggrieved on-air employee may elect to void the contract in whole or in part.

1114. Any person aggrieved by a violation of the provisions of this chapter may bring an action for damages or for declaratory or injunctive relief. If the plaintiff prevails in an action under this section, the plaintiff shall be entitled to recover damages actually incurred or five thousand dollars (\$5,000), whichever is greater, and shall be awarded reasonable attorney’s fees and costs.

1114.5. Nothing in this chapter limits or alters any rights established under any other provision of law.